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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,240	02/06/2004	Richard E. Waitkus JR.	016093.0118	9102
23640	7590	09/16/2005	EXAMINER	
BAKER BOTTS, LLP 910 LOUISIANA HOUSTON, TX 77002-4995			LAU, TUNG S	
		ART UNIT	PAPER NUMBER	
		2863		

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
10/774,240	WAITKUS, RICHARD E.	
Examiner	Art Unit	
Tung S. Lau	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 August 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3-11 and 13-32 is/are rejected.
- 7) Claim(s) 12 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date See office action.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. Information Disclosure Statement filed on 08/25/2005 is acknowledged by the examiner; A copy of a signed PTO-1449 attached with this office action.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-11, 13-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Little et al. (U.S. Patent 6,123,017).

Regarding claim 1:

Little discloses a material management system including: one or more waste containers adapted to receive and compact waste (abstract); a fullness-measuring subsystem for determining the fullness of one or more waste containers (fig. 1, unit 24, fig. 15); a computerized scheduling subsystem in communication with the fullness-measuring subsystem for automatically determining an optimal time to empty each waste container (fig. 1, unit 24), based on the fullnesses of the waste container (fig. 15) and scheduling factors (Col. 2-3, Lines 40-9) including customer preferences (Col. 1-2, Lines 40-9) and waste hauler limitations (fig. 15).

Regarding claim 15:

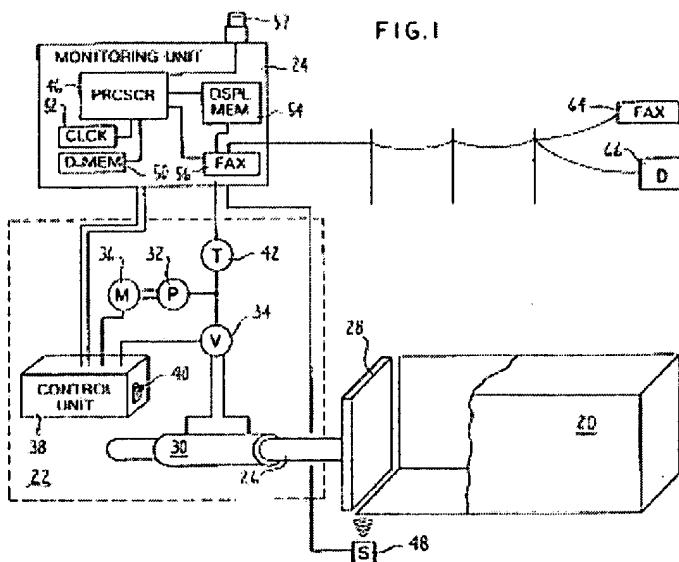
Little discloses a computerized method for scheduling a pick up time to remove of one or more waste containers, including, for each waste container (abstract), automatically determining a fullness of the waste container (fig. 15); automatically determining when a waste container will a target level of fullness, based on the current fullness and predicted future usage (fig. 15); automatically determining an optimal time to remove the waste container (Col. 1-2, Lines 40-9), based on when the waste container will reach the target level of fullness (fig. 15), customer preferences (Col. 1-2, Lines 40-9), and waste hauler limitations (fig. 15); and automatically scheduling the removal of the waste container for the optimal time (Col. 1-2, Lines 40-9, Col. 2-3, Lines 40-9).

FIG. 15

	S	M	T	W	Th	F	Sa
DAILY USES	3	8	16	11	20	9	4
	5	8	13	15	14	8	4
	7	9	15	8	18	12	7
	4	8	14	11	13	10	4
EXPECTED USE	5	8	15	12	16	10	5

Regarding claim 24:

Little discloses a computer program, stored on a tangible storage medium, for use in scheduling a pick up time to remove one or more waste containers, the computer program including executable indications that cause a computer to (fig. 1, unit 24, Col. 3-4, Lines 10-3), for each waste container (fig. 15); determine a fullness of the waste container; determine when the waste container will reach a target level of fullness (fig. 15), based on the current fullness and predicted future usage (Col. 3-4, Lines 10-3, fig. 15); determine an optimal time to remove the waste container (Col. 1-2, Lines 40-9) , based on when the waste container will reach the target level of fullness (fig. 15), customer preferences (Col. 1-2, Lines 40-9), and waste hauler limitations (fig. 15); and schedule the removal of the waste container for the optimal time (Col. 1-2, Lines 40-9, Col. 2-3, Lines 40-9).



Regarding claim 3, Little discloses including the optimal time is the latest time that satisfies customer preferences and waste hauler limitations (Col. 1-2, Lines

40-54); Regarding claim 4, Little discloses a preference that the customer's waste container only reach a certain level of fullness (fig. 15); Regarding claim 5, Little discloses a number of drivers available at a specified time (fig. 3, unit 89); Regarding claim 6, Little discloses if no time satisfies customer preferences and waste hauler limitations, the computerized scheduling system will choose an optimal time that satisfies one or more customer preferences (Col. 1-2, Lines 40-54); Regarding claim 7, Little discloses if no time satisfies customer preferences and waste hauler limitations, the computerized scheduling system will choose an optimal time that satisfies one or more waste hauler limitation (Col. 1-2, Lines 40-9); Regarding claim 8, Little discloses including a communication subsystem in communication with the computerized scheduling subsystem for notifying the waste hauler when to remove the waste container (fig. 1, unit 24, Col. 1-2, Lines 40-9, Col. 3-4, Lines 37-3); Regarding claims 9, 22, Little discloses subject to user intervention (Col. 1-2, Lines 40-9); Regarding claims 10, 23, Little discloses user-intervention includes a user determining when to schedule the removal of a waste container (Col. 1-2, Lines 40-9); Regarding claim 11, Little discloses the predicted future usage is based on statistical analysis, performed by the computerized scheduling sub-system, of customer usage patterns including prior recorded fullnesses (fig. 15, Col. 3-4, Lines 10-4); Regarding claim 13, Little discloses causes the fullness-measuring subsystem to determine again the fullness of the waste container and the optimal pickup time, a lead time before scheduling the waste container removal; and if

the optimal removal time has changed, determining again when to accomplish the scheduling of the waste container removal (Col. 1-2, Lines 40-9); Regarding claim 14, Little discloses determines when to accomplish the scheduling of the waste container removal, based on the optimal time and one or more waste hauler limitations (Col. 1-2, Lines 40-32).

Regarding claims 16, 25, Little discloses percentage of the fullness (Col. 10, Lines 46-65); Regarding claim 17, Little discloses percentage of the fullness is about 100% (Col. 10, Lines 46-65, fig. 15); Regarding claims 18, 26, Little discloses automatically determining when to accomplish the scheduling of the waste container removal, based on the optimal time and one or more waste hauler limitations (Col. 1-2, Lines 40-32); Regarding claim 19, Little discloses latest time to accomplish the scheduling (Col. 1-2, Lines 40-32); Regarding claims 20, 27, Little discloses automatically determining again the fullness of the waste container and the optimal pickup time, a lead time before scheduling the waste container removal, and if the optimal removal time has changed, determining again when to accomplish the scheduling of the waste container removal (Col. 1-2, Lines 40-32); Regarding claim 21, Little discloses including customer usage pattern (fig. 15); Regarding claim 28, Little discloses when determining the waste container will reach the target level of fullness (Col. 9-10, Lines 29-51); Regarding claim 29, Little discloses a preference that the customer's waste container only reach a certain level of fullness (fig. 15, Col. 9-10, Lines 15-45); Regarding claims 30, 32, Little discloses operating hours of

waste hauler's dispatcher office (Col. 11, Lines 30-65); Regarding claim 31, Little discloses preference emptied certain day of the week (Col. 11, Lines 30-65).

Claim Objections

3. Claim 15 status identifier indicated that no changed was indicated, but it is currently amended, see MPEP 37 CFR 1.121.
4. Claims 15 and 24 are objected as having typographical error:
claim 15 lines 7-9:

~~-when the waste container will reach thea target level of fullness;~~
~~customer preferences; and~~
~~waste hauler limitations; and~~

claim 24, line 8-11:

~~the predicted full timewhen the waste container will reach the target level of fullness;~~
~~customer preferences; and~~
~~waste hauler limitations; and~~

correction are required.

Allowable Subject Matter

5. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitation of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: prior art fail to teach linear regression patterns.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

6. Applicant's arguments with respect to the amended claims have been considered but are moot in view of the new ground(s) of rejection. However, applicant's arguments filed 08/25/2005 have been fully considered but they are not persuasive.

A. Applicant argues that the prior art does not show the 'determining an optimal time to empty waste container based on fullness of the waste container and scheduling factor including customer preference and waste hauler limitation'. Little discloses 'determining an optimal time to empty waste container based on fullness of the waste container and scheduling factor including customer preference and waste hauler limitation' in Col. 1-2, Lines 40-32, Col. 11-12, Lines 30-65, fig. 15).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 571-272-2274. The examiner can normally be reached on M-F 9-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TL

BRYAN BUI
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Bryan Bui".